

REMARKS/ARGUMENTS

The examiner has objected to the specification in item 7(a) because the sequences "LPDTG" and "LPXTG" found on pages 10 and 2 of the specification respectively, are not identified by sequence identification numbers. In response to this rejection applicant has amended the specification so that it does not specifically refer to the aforementioned sequences. In this regard it is to be noted that the invention is in no way dependent on the 5 amino acids of these two sequences. These two sequences were only mentioned in connection with the features found in the FIG protein together with other features. It is not necessary to specifically mention the amino acids of these two sequences.

In view of the cancellation of the aforementioned sequences, it is clear that sequence identification numbers are no longer required.

The examiner has objected to the specification in item 7(b) on the grounds that the amino acid sequence depicted in figures 6A-6E is not identified by a sequence identification number either in the figure itself or in the brief description of the figure. Applicant submits that the examiner is incorrect on this point since the brief description to figure 6 was amended on August 9, 2000, to include a reference to sequence identification number 14 which depicts the nucleotide sequence shown in figure 6 as well as the deduced amino acid sequence thereof, and the reference to figure 6 was subsequently amended to refer to figures 6A-6E in the amendment dated July 20, 2001. Both of these amendments have been entered. Accordingly, the examiner's allegation in item 7(b) is without any basis and should be withdrawn.

Claim 1 has been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In rejecting the claims the examiner urges that the term "a polypeptide" in line 2 of claim 1 reads on a product of nature. The examiner suggests that this rejection may be overcome by reciting that the polypeptide is "isolated" or "purified". Accordingly, claim 1 has been amended as suggested by the examiner and thus the rejection should now be withdrawn.

The examiner has rejected claims 25 and 30 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In rejecting the claims the examiner urges that there is no antecedent basis for the limitation "or polypeptide according to claim 1". Applicant disagrees with the examiner since it is clear that claim 1 makes a definite and unambiguous reference to a polypeptide and this is clearly the polypeptide being referred to in the phrase "or polypeptide according to claim 1". In other words the polypeptide referred to in claims 25 and 30 is clearly "the" polypeptide of claim 1. Nonetheless, applicant has amended claims 25 and 30 by adding the definite article "the" immediately before "polypeptide" to expressly state that which was clearly implicit from claims 25 and 30. In any event, claims 25 are now in full compliance with 35 U.S.C. § 112, in view of the examiner's suggestion that amending claims 25 and 30 as discussed above will overcome the rejection.

The drawings have been amended as required in item 8 on page 3 of the office action. In particular, figure 6 has been changed in accordance with the last submitted proposal for amending the drawings which has been approved by the examiner. In addition figures 3, 7 and 11 have been changed to correct the

Serial No. 09/147,405

specific defects mentioned by the draftsperson in form PTO 948 which accompanied the office action dated May 9, 2000 (paper no. 13).

Lastly, it is to be noted that claims 2-24 and 26-29 remain as being withdrawn from consideration due to a previous restriction requirement. In this regard it will be recalled that the examiner has maintained the restriction requirement on the basis that the technical feature linking the inventions of groups I-XI do not constitute a special technical feature as defined by PCT Rule 13.2 because this technical feature does not define a contribution over the prior art. While there may have been some basis for this in the previous office actions wherein the claims were rejected on the basis of the prior art, there is clearly no basis for continuing the withdrawal of these claims from consideration since there is no longer any prior art basis for rejecting claims 1 and 25. Thus, applicant submits that the special technical feature in the allowed claims does indeed define a contribution over the prior art. Accordingly, applicant respectfully requests reconsideration of the restriction requirement and reopening the prosecution so that claims 2-24 and 26-29 can be examined on their merits in accordance with prescribed procedures. In this regard it is to be note that claims 14-19, 24, 27 and 29 depend from claim 1 and thereby include all of the limitations of claim 1, including the technical feature which defines a contribution over the prior art. It is also to be noted that claim 9 relates to the DNA molecule which encodes the amino acid sequence of SEQ ID NO: 13 which is the amino acid sequence of the polypeptide recited in claim 1. Thus, claim 9

Serial No. 09/147,405

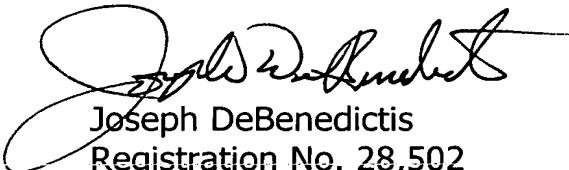
(and claim 11 which depends therefrom) also includes the technical feature which defines a contribution over the prior art.

Respectfully submitted,

BACON & THOMAS, PLLC

Date: July 9, 2003

BACON & THOMAS
625 Slaters Lane, 4th Floor
Alexandria, Virginia 22314
(703) 683-0500



Joseph DeBenedictis
Registration No. 28,502

S:\Producer\jdb\ZACCO SWEDEN AB\Guss 147405\A13.wpd